



**MINUTES OF SPECIAL JOINT MEETING OF THE
CITY COUNCIL/REDEVELOPMENT AGENCY
OF THE CITY OF HAYWARD
City Council Chambers
777 B Street, Hayward, CA 94541
Tuesday, May 27, 2003, 8:00 p.m.**

MEETING

The Special Joint Meeting of the City Council/Redevelopment Agency was called to order by Mayor/Chair Cooper at 8:00 p.m., followed by the Pledge of Allegiance led by Council/RA Member Hilson. Council/RA Member Hilson, noting a Boy Scout Troop, provided them opportunity to lead the salute to the flag.

ROLL CALL

Present: COUNCIL/RA MEMBERS Jimenez, Hilson,
Rodriguez, Ward, Dowling, Henson
MAYOR/CHAIR Cooper
Absent: None

PRESENTATION: Awards to Winners of the Hayward Clean-Up Days Poster and Essay Contest

Mayor Cooper congratulated the winners of the Hayward Clean-Up Days Poster and Essay Contest with gift certificate awards. Council Member Hilson thanked everyone involved who made this event so successful, including the Environment Committee, the judges, the City staff, the Hayward City Employees Association, the Hayward Arts Council, and the teachers who encouraged the students to use their artistic talents and creativity, and St. Rose Hospital for sponsoring the health function of the Hayward Clean-up Days. He also thanked the Hayward Kiwanis, HARD, and the Daily Review for 20 years of sponsorship. The following businesses were acknowledged for donating towards the prizes that were awarded: Berkeley Farms, Curb Cycle, E-Signal, Felson Builders, Gillig Corporation, Hayward Honda, Hayward 1900, Keenan Land Development, Mervyns of California, Oakland Athletic Baseball Team, Shasta Beverage Company, Six-Flags Marine World and Waste Management. Lastly, he thanked Public Works Recycling Specialist Kathleen Beebe, the Administrative staff of Public Works Administration and Utilities Division, and Solid Waste Manager Vera Dahle-Lacaze. The essays, posters and names of winners are posted on the website for the City.

PUBLIC COMMENTS

Barbara Swarr asked who is responsible for the curbside planting area in front of properties. She also asked for an update on the community preservation laws pertaining to boarded up windows, inspections fees and vacant houses. She also expressed her concerns on whether studies should be initiated prior to hearing public feedback.

City Manager Armas responded by stating that the planter areas are the responsibility of the property owner; the City is enforcing its ordinance regarding boarded up windows, but that the

DRAFT

property owners have requested extensions to replace boards with glass. He noted that the same policies apply to the rental rehabilitation program as the community preservation.

Jason Moreno commented on a recent Neighborhood Alliance meeting.

Jim Drake expressed his concerns against the restaurant in his neighborhood that is applying for a beer license.

CONSENT

Item 4 was removed for further discussion.

1. Approval of Minutes of the City Council Meeting of May 13, 2003

It was moved by Council Member Hilson, seconded by Council Member Rodriguez, and unanimously carried to approve the minutes of the City Council Meeting of May 13, 2003.

2. Approval of Minutes of the Special Joint City Council/Redevelopment Agency Meeting of May 20, 2003

It was moved by Council/RA Member Hilson, seconded by Council/RA Member Rodriguez, and unanimously carried to approve the minutes of the Special Joint City Council/Redevelopment Agency Meeting of May 20, 2003.

3. Final Map Tract 7386 – Taylor Woodrow Homes, Inc. (Subdivider) – Approval of Final Map, Authorize the City Manager to Execute a Subdivision Agreement

Staff report submitted by Development Review Engineer Gaber,
dated May 27, 2003, was filed.

It was moved by Council Member Hilson, seconded by Council Member Rodriguez, and unanimously carried to adopt the following:

Resolution 03-078, “Resolution Approving Final Map for Tract 7386 and Authorizing the City Manager to Execute a Subdivision Agreement”

4. Resolution Doubling Fines for Moving Violations in School Zones

Staff report submitted by Deputy Chief of Police Houghtelling,
dated May 27, 2003, was filed.

Council Member Ward asked why the funds engendered would be going to a different entity.

City Manager Armas explained that this was prescribed by state law.



**MINUTES OF SPECIAL JOINT MEETING OF THE
CITY COUNCIL/REDEVELOPMENT AGENCY
OF THE CITY OF HAYWARD
City Council Chambers
777 B Street, Hayward, CA 94541
Tuesday, May 27, 2003, 8:00 p.m.**

It was moved by Council Member Ward, seconded by Council Member Dowling, and unanimously carried to adopt the following:

Resolution 03-080, "Resolution Authorizing the City Manager to Double the Fines in School Zones"

5. Amendment of Zoning Ordinance Relative to Expiration of Discretionary Permits and Miscellaneous Clarifications and Corrections, Including Definition of a Garage, Bedroom, Home Occupation, Household Pets and Livestock

Staff report submitted by City Clerk Reyes, dated May 27, 2003, was filed.

It was moved by Council Member Hilson, seconded by Council Member Rodriquez, and unanimously carried to adopt the following:

Ordinance 03-08, "An Ordinance Amending Section 10-1.1020, 10-1.1045, 10-1.1115, 10-1.1125, 10-1.2735, 10-1.3255, 10-1.3055, 10-1.3510, 10-1.415 and 10-1.525 of Article One of Chapter 10 of the Hayward Municipal Code"

6. Adoption of 2002 State Standard Specifications and Standard Plans and the 2002 City Standard Details

Staff report submitted by Deputy Director of Public Works/Engineering Bauman, dated May 27, 2003, was filed.

It was moved by Council Member Hilson, seconded by Council Member Rodriquez, and unanimously carried to adopt the following:

Resolution 03-079, "Resolution Adopting Standard Plans, Specifications, and Details for Public Works Construction for the City of Hayward and Repealing Resolution No. 93-120 and all Other Resolutions in Conflict Herewith"

HEARINGS

7. Appeal of Planning Commission Approval of Variance PL-2003-0102 to Retain a 7-Foot Fence where a Maximum of 6 Feet is Permitted – Paige Bennett (Applicant/Owner), David Velasquez (Appellant) – The Property is Located at 313 Bridgecreek Way

DRAFT

Staff report submitted by Director of Community and Economic Development Ehrental, dated May 27, 2003, was filed.

Principal Planner Patenaude made the staff presentation and showed slides displaying the higher fence that was installed without a permit. The variance was reviewed by the Planning Commission and approved. He noted that the original applicant has a dog fancier's permit. Staff provided several suggestions to install a decorative horizontal barrier. He noted that this property has no special circumstances under which a variance can be granted.

Council Member Ward asked questions related to the conditions of approval and special circumstances for the subdivision itself as well as the landscaping suggested by staff. He also asked whether the present fence could be retrofitted to accommodate the zoning.

Principal Planner Patenaude responded that there were none since the City Zoning Ordinance places a six-foot high limit on fences. He said the fence might be shortened and he did not recall any variances granted by the Planning Department for fence heights, at least not in this neighborhood. He noted that typically a variance might be granted for properties that have topographical changes or have an odd shape compared to neighboring properties.

Council Member Henson asked about the nature of the dog fancier's permit. Council Member Dowling also asked for an explanation of how a dog fancier permit was obtained.

Police Captain Ribera explained that the permit was approved on July 2001. It is evaluated annually and includes an inspection of the property. The permit was approved for up to 8 adult dogs. He explained that the conditions approved for this property are the structure of the property, security, room for the dogs to be housed, cleanup of the dog kennels, storage of waste and restrictions related to noise complaints. There were only two calls for service in the past year. Police Captain Ribera explained the process and added that the dog fancier's permit is rare in Hayward. There is only one other permit in Hayward. He said he did not know the circumstances of that issuance.

Mayor Cooper opened the public hearing at 8:43 p.m.

Linda Bristow lives on Call Avenue and spoke in favor of Paige Bennett and her efforts towards rescuing animals.

Kathleen DeWitt-San Miguel spoke in support of the appeal. She did not agree with granting a variance for the fencing. She felt that it gave a false sense of security. She emphasized that for her, the immediate concern is of the potential of the dog.

Council Member Henson asked how long the fence had been up and when did she raise objections to it.

Ms. San Miguel said she served on the Homeowner's Board as vice-president. They had not



**MINUTES OF SPECIAL JOINT MEETING OF THE
CITY COUNCIL/REDEVELOPMENT AGENCY
OF THE CITY OF HAYWARD
City Council Chambers
777 B Street, Hayward, CA 94541
Tuesday, May 27, 2003, 8:00 p.m.**

formed an architectural review committee at that time. Subsequently this has been done. It has been about a year and a half since the objection was made initially.

Jeanne Gocker reiterated on the pit bull program and noted that Paige Bennett has coordinated her efforts with the Animal Shelter. She spoke in favor of Ms. Bennett.

Steve Sapontzis, representing Friends of Animals, spoke in favor of Ms. Bennett. He noted various allegations that he felt were inaccurate. He noted that this is not a business and a rather unusual request.

Paige Bennett summarized the circumstances involved related to the fences. In response to Council Member Henson's question, she noted that she has a kennel, but the dogs are allowed in the garage and have access to the yard area. She reported that she does foster other dog species besides pit bulls.

Council Member Ward stated that he visited the site and noted that it was clean and well maintained and the dogs present seemed well behaved. He commended her volunteer service.

Council Member Rodriguez felt that six adult dogs would be a concern, but the actual consideration for this Council was the seven-foot fence.

Council Member Dowling asked about the kennels situated in the garage. He also commended her service and asked if she had looked for a home in a more rural setting prior to purchasing this home.

Council Member Jimenez asked about her building a higher fence.

Ms. Bennett explained that she discussed it with her neighbors. They all expressed a sense of confidence with increasing the height by one foot.

Vanessa Beck of San Leandro, representing Friends of Fairmont and currently a dog foster, spoke in favor of Paige Bennett and her efforts towards community service. She presented a chart of statistics related to fostering dogs, adoption and rescuing of dogs as well as euthanizing of dogs. She added that any thorny bush on or atop a fence could be hazardous to dogs.

Dr. Kim Bercovitz of Castro Valley, a veterinarian of Redwood Animal Hospital, commented that cactus is not favorable for animals. In relation to hot wire fencing, she noted an incidence of respiratory distress. She said she sees the dogs for Paige Bennett, saying she is a foster mother and is looking for suitable homes. She added that she has euthanized several for unstable temperaments. It was her opinion the fence is an obvious option in response to neighborhood concerns so the neighbors feel safer. She said retaining the fence would be the obvious way of retaining the dogs in

DRAFT

the yard.

Susan Perry of Castro Valley, showed support for Ms. Bennett who is performing a community service.

Alexander Herron said he lives in Twin Bridges, and appreciated the taller fence for the safety of his children. He noted the closeness of homes in the development and the fact that people are taller. He suggested changing the ordinance to seven-foot fencing.

Lyle Sieg of Castro Valley and a dog foster spoke in favor of Ms. Bennett as someone who is helping the community. He suggested the variance be in existence until the home ownership changes. As to others wanting a similar variance, she is only one of two dog fanciers in the City of Hayward who might qualify for this variance.

Ike Amuzie lives directly behind Paige. He asked for the higher fence and agreed that it was needed. He has four children and expressed his primary concern for their safety from dogs, which could jump a six-foot fence. He did not favor a 'hot wire' fence.

David Velasquez, a next-door neighbor, presented his experience related to the dog fostering. He explained that the neighbors have been tolerant with nuisances such as dog barking directly under his bedroom window. He was not in favor of dog fostering next door. He cited an experience when the dogs escaped and witnessed a dog mauling.

Council Member Henson asked about Mr. Velasquez's objection to the fostering use of his neighbor. Mr. Velasquez explained that it was the dogs that were objectionable. Council Member Henson suggested that Ms. Bennett had a permit for the dogs and could still keep them even if the fence is lowered.

Council Member Jimenez asked Mr. Velasquez if he purchased his home prior to Ms. Bennett having purchased hers.

He stated that he moved in after, but the dog fancier permit was issued after he had moved into his home.

Natalie Pepper is a foster of animals and shared her experience in giving animals a second chance. She said the hearing is about a fence although it really is about much more than a fence. Foster parents of animals are the difference between life and death for many animals.

Jason Moreno asked a question related to liability against the City of Hayward as well as the neighbor who initiated the complaint, should the fence be lowered and a dog escapes.

Jim Drake asked about fencing requirements for six-foot fences.

Principal Planner Patenaude indicated that any fence over six-feet needs a building permit.



**MINUTES OF SPECIAL JOINT MEETING OF THE
CITY COUNCIL/REDEVELOPMENT AGENCY
OF THE CITY OF HAYWARD
City Council Chambers
777 B Street, Hayward, CA 94541
Tuesday, May 27, 2003, 8:00 p.m.**

Amy Petersen reiterated her concerns and spoke in favor of Ms. Bennett. She said she worked with Paige at the Animal Shelter. She noted that the issue was the animals, not the fence.

Additionally, Paige Bennett submitted a statement from her neighbor, Tanweer-Ahmed residing at 309 Bridgecreek Way, favored the variance.

Mayor Cooper closed the public hearing at 10:10 p.m.

Council Member Ward asked staff about the horizontal barrier and whether it would keep the dog from leaping the fence. He expressed concerns regarding prickly plants that could harm an animal. He asked about the structural integrity of the present fence and whether it could sustain the additional decorative fencing.

Principal Planner Patenaude could not respond at this time.

Mayor Cooper said she felt that the appeal should be upheld. She noted that issues would continue such as neighborhood tolerance and the dogs. It is difficult to turn in a neighbor.

Council Member Dowling moved, seconded by Council Member Henson, to deny the variance and uphold the appeal.

Council Member Dowling added that although the houses are very close together, probably a 12-foot fence might not be enough. In terms of the dogs, he would like the Police Department to look at the granting of a dog fancier permit, which would include notification of neighbors. He said he would not want to live next door to a neighbor with 4-8 dogs.

Council Member Henson commended Ms. Bennett for fostering dogs, emphasizing that the issue is strictly a fence issue. He has two huskies and sympathized with fostering dogs. Six feet is the restrictive height and must be consistent with current code regulations. In a clustered housing development such as Twin Bridges, dog fancying might be an issue that needs to be addressed. He commended Ms. Paige, but Council must uphold the Code.

Council Member Rodriquez summarized the complicated issues involved. This issue is not about caring about dogs so much as it is about neighborhood tolerance. She also expressed concern for those who fear animals.

Council Member Hilson commented that he needed a legal rationale for voting for a variance. Since most of the comments were regarding dogs, he did not hear any discussion on land use issues. He recognized that Ms. Bennett was trying to accommodate her neighbors. He suggested the issue might be the number of dogs in a tight residential neighborhood. He said he could not support a

DRAFT

variance.

Council Member Jimenez asked about the number of dogs permitted with a dog fancier permit. He also asked about others in the area who might have 7-foot fences.

City Manager Armas responded that a permit allows 8 adult dogs. As to the fences, the City can only respond to those issues brought to its attention.

Mayor Cooper noted that the issue was really the 6-foot fence. In this instance, fences can be good isolators. She noted that a fancier's permit permitting eight adult dogs should never have been allowed in a residential neighborhood. She favored fostering animals, but in a residential setting, she would prefer restricting them to four rather than eight animals. She added that she would favor the motion.

It was moved by Council Member Dowling, seconded by Council Member Henson, and unanimously carried to adopt the following:

Resolution 03-081, "Resolution Finding the Project Categorically
Exempt from CEQA Review and Denying the Variance Application
No. PL-2003-0102"

COUNCIL REPORTS

There were no Council Reports.

ADJOURNMENT

Mayor Cooper adjourned the meeting at 10:36 p.m.

APPROVED:

Roberta Cooper, Mayor, City of Hayward
Chair, Redevelopment Agency

ATTEST:

Angelina Reyes, City Clerk, City of Hayward
Secretary, Redevelopment Agency

DRAFT